

JaVonne M. Phillips, Esq. SBN 187474
Jennifer C. Wong, Esq. SBN 246725
McCarthy & Holthus, LLP
2763 Camino Del Rio South, Suite 100
San Diego, CA 92108
Phone (877) 369-6122
Fax (619) 685-4811

Attorneys for
MidFirst Bank, its assignees and/or successors

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
RIVERSIDE DIVISION

In re	) Case No. 6:23-bk-10956-WJ
)
)
Dennis Michael Wilhide, Jr.	) Chapter 13
Lisa Nanette Wilhide aka Lisa Gutierrez,)
)
Debtors.)
	) OBJECTION TO CONFIRMATION OF
	) CHAPTER 13 PLAN
)
)
)
	) Confirmation Hearing:
	) Date: 5/10/2023
	) Time: 2:00 PM
	) Ctrm: 304
	) Place: 3420 Twelfth Street,
	) Riverside CA
)
)
)
	) Judge: Wayne E. Johnson
)
)
)

1 MidFirst Bank, its assignees and/or successors (“Secured Creditor”) in the above-entitled
2 Bankruptcy proceeding, hereby submits the following Objections to Confirmation of the Chapter
3 13 Plan proposed by (“Debtors”) Dennis Michael Wilhide, Jr. and Lisa Nanette Wilhide.

4 1. Secured Creditor is entitled to receive payments pursuant to a Promissory Note
5 which matures on 8/1/2050 and is secured by a Deed of Trust on the subject property commonly
6 known as 1072 Poinsettia Circle, Calimesa, CA 92320. As of 3/13/2023, the approximate
7 amount in default was \$2,156.93. A Proof of Claim detailing the arrearages is forthcoming and
8 will be filed on or before the claims bar date; however, Secured Creditor submits the following
9 objections to timely preserve its rights and treatment under the proposed Plan.

10 2. The proposed Plan does not include the arrearages owed to Secured Creditor.
11 Pursuant to 11 U.S.C. §1322(b)(2), b(5) and 1325 (a)(5)(B), the proposed plan must provide for
12 full payment of the arrearages as well as ongoing monthly payments pursuant to the Note and
13 Deed of Trust. To cure the approximate pre-petition arrearages of \$2,156.93 within 60 months,
14 Secured Creditor must receive a minimum payment of \$35.95 per month from the Debtors
15 through the Plan. Debtors' Plan provides for payments to the Trustee in the amount of \$1,823.00
16 per month for 60 months. Due to the minimal amount required per month, it appears Debtor may
17 have sufficient funds available to increase plan payments to cure the arrears within 60 months
18 and thus the Plan should be amended/interlineated accordingly. A true and correct copy of
19 Debtors Schedules I and J is attached hereto as **Exhibit “1.”**

20 3. Unless otherwise ordered, under 11 U.S.C. § 1326(a)(1), the Debtors shall
21 commence making the payments proposed by the Plan within 30 days after the Petition is filed.
22 The Plan must comply with all applicable provisions of 11 U.S.C. § 1325 to be confirmed. As
23 such, the Plan cannot be confirmed.

24
25 CONCLUSION

26 Any Chapter 13 Plan proposed by the Debtors must provide for and eliminate the
27 Objections specified above in order to be reasonable and to comply with applicable provisions of
28 the Bankruptcy Code. Secured Creditor respectfully requests that confirmation of the Chapter 13
29

1 Plan as proposed by the Debtors be denied, or in the alternative, be amended to provide for full
2 payoff of the arrearages owed to Secured Creditor.

3
4 WHEREFORE, Secured Creditor prays as follows:

5 1. That confirmation of the Proposed Chapter 13 Plan be denied, or in the
6 alternative, be amended to provide for full payoff of the arrearages owed to Secured Creditor
7 within 60 months;

8 2. For attorneys' fees and costs herein,

9 3. For such other relief as this Court deems proper.

10
11
12 Respectfully submitted,

13 **McCarthy & Holthus, LLP**

14 4/07/2023

15 By: /s/ Jennifer C. Wong
16 Jennifer C. Wong, Esq.
17 Attorney for MidFirst Bank, its assignees and/or
18 successors
19
20
21
22
23
24
25
26
27
28
29

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
2763 Camino Del Rio S., Suite 100
San Diego, CA 92108

A true and correct copy of the foregoing document entitled (*specify*): **OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 4/7/2023, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

TRUSTEE

Rod Danielson (TR)
notice-efile@rodan13.com

DEBTOR(S) COUNSEL

Rabin J Pournazarian
enotice@pricelawgroup.com

US TRUSTEE

ustpregion16.rs.ecf@usdoj.gov

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) 4/7/2023, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

DEBTOR(S)

Dennis Michael Wilhide, Jr., 1072 Poinsettia Circle, Calimesa, CA 92320

Lisa Nanette Wilhide, 1072 Poinsettia Circle, Calimesa, CA 92320

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

4/7/2023

Date

Hue Banh

Printed Name

/s/ Hue Banh

Signature